

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

LM INSURANCE COMPANY,	§	
	§	
Plaintiff,	§	
	§	
v.	§	Civil Action No. 3:22-CV-0917-K
	§	
CINCINNATI INSURANCE	§	
COMPANY,	§	
	§	
Defendant.	§	

**FINAL JUDGMENT**

This Final Judgment is entered pursuant to the Memorandum Opinion and Order of this same date wherein the Court granted Plaintiff LM Insurance Company's Motion for Partial Summary Judgment on Defendant Cincinnati Insurance Company's duty to defend and also dismissed without prejudice Plaintiff's claim for declaratory relief on Defendant's duty to indemnify as non-justiciable.

It is, therefore, ORDERED, ADJUDGED and DECREED that Defendant owes a duty to defend Rogers O'Brien Construction Company, Ltd., as an additional insured, in the state court case, *Esteban S. Alvarez v. Venture Commercial Management, LLC*, Cause No. CC-19-00837-C.

It is further ORDERED, ADJUDGED and DECREED that Defendant's duty to defend is retroactive to June 12, 2020, the date on which first tender was made to Defendant on behalf of Rogers O'Brien Construction Company, Ltd.

It is further ORDERED, ADJUDGED and DECREED that Defendant's duty to defend is primary and non-contributory.

It is further ORDERED, ADJUDGED and DECREED that Plaintiff is entitled to recover from Defendant the costs and fees Plaintiff incurred in defending Rogers O'Brien Construction Company, Ltd. in the state court case, *Esteban S. Alvarez v. Venture Commercial Management, LLC*, Cause No. CC-19-00837-C, and in filing this federal action as the result of Defendant's breach of contract.

**SO ORDERED.**

Signed January 30<sup>th</sup>, 2024.

  
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ED KINKEADE  
UNITED STATES DISTRICT JUDGE